

In re Application of:
Albani et al.
Application No.: 10/001,938
Filed: October 31, 2001
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PATENT
Attorney Docket No.: UCSD1360-1

Remarks

Claims 1-73 were pending in this application prior to this response. By the present communication, claims 57-59, 62, and 64-66 have been amended, claim 61 has been canceled, and claim 74 has been added. The claim amendments add no new matter, being fully supported by the Specification and original claims. Accordingly, claims 1-74 are pending.

Restriction Requirement

In response to the Restriction Requirement mailed December 15, 2003, Applicant timely filed an election on February 23, 2004, which the Examiner indicates was non-responsive to the Office Communication. Consequently, the claim amendments and election contained in this Communication replace the previously filed response.

Applicants elect, with traverse, Group III, consisting of Claims 57-66, drawn to a peptide or combination of peptides, classified in Class 424, subclass 278.1 and Class 530, subclasses 326 and 327.

The Examiner alleges, in the Office Action, that claims 1-33 and 35-73 are generic, and requires Applicants to elect a specific peptide or polynucleotide encoding a specific peptide, or a combination of peptides or a combination of polynucleotides encoding specific peptides, under 35 U.S.C. § 121. Applicants elect, with traverse, the peptide species of SEQ ID NO: 3, upon which claims 57-66 and newly presented claim 74 read. However, upon the allowance of a generic claim, Applicants respectfully request entitlement to consideration of claims to the additional species as set forth in the claims as filed (M.P.E.P. § 809.02(a)).

Although the peptide set forth as SEQ ID NO: 3 is elected in order to be fully responsive to the present Communication, the species election requirement is traversed because each of the peptides set forth in the claims shares a commonality of operation, function and effect with the other peptides (M.P.E.P. § 806.04(e)). More specifically, while the peptides have different sequences, they

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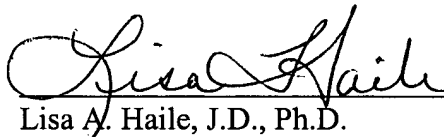
share the common characteristic that each can induce tolerance. As such, it is respectfully requested that the species election requirement be withdrawn.

Enclosed is check #560809 in the amount of \$43.00 for the additional claim fee in connection with the filing of this Response. However, if any additional fees is required, the Commissioner is authorized to charge any fee (or credit any overpayment) to Deposit Acct. No. 50-1355.

The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

Respectfully submitted,

Dated: June 9, 2004



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